

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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DENTAL HEALTH PRODUCTS, INC.,

Plaintiff,

v.

Case No. 08-C-1039

FRANK RINGO, et al.

Defendants.

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**ORDER**

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Plaintiff Dental Health Products, Inc. has filed a Rule 7(h) motion asking that the Court modify the scheduling order. It asks for an extension of the discovery deadline from March 19, 2010 to June 21, 2010, and an extension of the dispositive motion deadline from April 1 to July 1. Defendants oppose the motion. They argue that Plaintiff has had ample time to obtain the discovery it now claims to need, and it dragged its feet in identifying additional information it seeks. Moreover, they assert, Plaintiff has likely been squandering its time filing an unauthorized reply brief in support of its motion to strike Defendant Ringo's answer, in violation of Civil L. R. 7(h)(2).

On this latter point, the Plaintiff's motion to strike was not filed under Rule 7(h). It seeks a default judgment and, as such, the motion cannot be described as "non-dispositive." Accordingly, a reply brief does not require leave of court, and thus the reply Plaintiff filed is wholly proper and is not a basis for denying their request for an extension. I am satisfied that Plaintiff's request is reasonable. It seeks an additional three months, which is not a particularly long time in federal litigation, and it has stated reasonable grounds for needing that time. The Defendants' suggestion of foot-dragging and undue delay is not supported by the record. I also note that some of the delay

in this action arose out of a motion to dismiss filed by Defendant Ringo that I described in a previous order as frivolous.

Accordingly, the motion to modify the scheduling order is **GRANTED**. Discovery will now close on June 21; dispositive motions are due July 1.

**SO ORDERED** this 15th day of March, 2010.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge